

Joseph N. Froehlich
LOCKE LORD BISSELL & LIDDELL LLP
885 Third Ave., 26th Floor
New York, New York 10022
212.812.8342
Attorneys for Defendants ProShares Trust, et al.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

RICHARD GREENBERG,

Plaintiff,

CIVIL ACTION FILE
NO. _____

v.

PROSHARES TRUST and PROFUND
ADVISORS LLC,

Defendants.

NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

Defendants ProShares Trust and ProFund Advisors LLC (collectively, "Defendants"), by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1441 and 1446, hereby give notice of removal of this action to the United States District Court for the District of New Jersey. As grounds for this removal, Defendants state as follows:

1.

Plaintiff Mr. Richard Greenberg ("Plaintiff") filed an original Complaint against Defendants on or about April 13, 2009 in the Superior Court of New Jersey, Morris County styled *Richard Greenberg v. Pro Shares Trust and Pro Shares Advisors, L.L.C.*, Docket No: L-1101-09 (the "Complaint"). On or about April 29, 2009, the Plaintiff filed an Amendment to the Complaint that named ProFund Advisors LLC as a defendant in the place of ProShares Advisors LLC.

2.

Defendants were served with the Complaint on or about May 7, 2009.

3.

True and correct copies of all process, pleadings and orders on file with the Clerk of the Superior Court of New Jersey, Morris County, and served on Defendants, are attached hereto as Exhibit "A" and incorporated herein by reference.

4.

This Notice of Removal of this case to the United States District Court is filed by Defendants within thirty (30) days after the receipt by Defendants, through the service of a summons, of a copy of the initial pleading setting forth the claims for relief upon which this action is based. *See* 28 U.S.C. § 1446(b).

DIVERSITY JURISDICTION

5.

This case is removable pursuant to 28 U.S.C. § 1441 because this United States District Court has original jurisdiction of this case pursuant to 28 U.S.C. 1332.

6.

Section 1332 provides, in relevant part, as follows:

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between –

(1) citizens of different states;

...

(c) For the purposes of this section and section 1441 of this title –

(1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business...

7.

Plaintiff is a citizen Florida. *See* Complaint, ¶1.

8.

Defendant ProShares Trust is a Delaware statutory trust with its principal place of business in Maryland.

9.

Defendant ProFund Advisors LLC is a Maryland limited liability company with its principal place of business in Maryland.

10.

Plaintiff asserts three counts concerning Plaintiff's alleged purchase of securities from Defendants. Among the remedies, Plaintiff seeks compensatory damages and, "to tender the securities back to [Defendants] in exchange for repayment of the consideration paid." *See* Complaint, p. 5. On May 14, 2009, Plaintiff's counsel sent a demand letter, attached hereto as Exhibit B, that tendered securities and demanded payment of \$861,329.00. It is believed that the current value of the securities identified by Plaintiff is approximately \$117,000. Thus, based on Plaintiff's allegation and demands, and without waiver of Defendants' right to contest any and all claims of damages, the amount in controversy far exceeds the \$75,000 threshold.

11.

Thus, this case properly before this Court based on diversity jurisdiction principles, as provided by 28 U.S.C. 1332.

12.

Written notice of the removal of this action has been given simultaneously herewith to Plaintiff's counsel, and a copy of this Notice of Removal will be filed promptly with the Clerk of the Superior Court of New Jersey, Morris County, as required by 29 U.S.C. 1446(b).

WHEREFORE, Defendants pray that the Superior Court of New Jersey, Morris County, proceed no further with Docket No: L-1101-09, and that said action be removed from the Superior Court of New Jersey, Morris County, to the United States District Court of New Jersey.

Respectfully submitted, this 2nd day of June, 2009.

LOCKE LORD BISSELL & LIDDELL LLP

By:


Joseph N. Froehlich

885 Third Avenue, 26th Floor

New York, New York 10022

Telephone: (212) 812-8345

Facsimile: (212) 947-1202

E-mail: jfroehlich@lockelord.com

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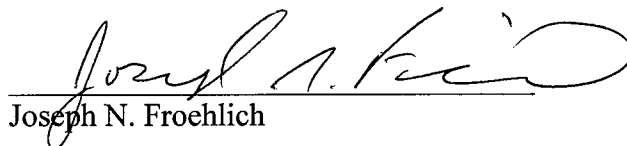
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I have this date served a true and correct copy of the within and foregoing **NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT** by depositing a copy of same in the United States Mail, in an envelope with adequate postage affixed, and a courtesy copy sent by federal express, addressed to counsel of record as follows:

Peter R. Bray, Esq.
Bray, Miller & Bray, L.L.C.
Ivy Corporate Park
100 Misty Lane
Parsippany, New Jersey 07054-2710

This 2nd day of June, 2009.


Joseph N. Froehlich